

United States Senate
Committee On Indian Affairs

Oversight **Hearings**

Implementation of the
Native American Graves Protection and Repatriation **Act**

Testimony By
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Chairman Campbell
Vice Chairman Inouye

My name is Rosita Worl and I am currently serving in the capacity of Interim Executive Director of the Sealaska Heritage Foundation. The Foundation's membership includes the Board of Directors of Sealaska Corporation which is the regional Native Corporation for Southeast Alaska and was created under the Alaska Native Claims Settlement Act of 1971. Sealaska is also recognized as a tribe for the statutory purposes of NAGPRA.

I have been involved with NAGPRA as a Board Member of the National Museum of American Indians and as a consulting tribal anthropologist to The Central Council of Tlingit and Haida Indians of Southeast Alaska. I have witnessed the benefits of NAGPRA through my participation in ceremonial activities in which cultural objects returned under NAGPRA to clans in Southeast Alaska have been used as they were originally meant to be.

On occasion I have written and discussed various aspects relating to the implementation of NAGPRA with our Alaskan Congressional Delegation. Thus I was very pleased when I learned that The Committee On Indian Affairs would be holding a hearing on the implementation of NAGPRA, and I am very honored to be here today.

In the interest of time I will highlight a few issues. However, before I begin my discussion, I would like to note for the record that Sealaska concurs with the nine recommendations that were outlined in a Memorandum dated April 14, 1999 to the Chair and Vice Chair of this Committee from the Minority Committee Staff in reference to this Oversight Hearing. I would especially emphasize our wholehearted support for the recommendation to "Replace the NPS with another administering agency that would not have the inherent conflict of interest which exists in the Office of Chief Archaeologist with the National Park Service." I have written to my Delegation about this issue and I know that this specific concern has emerged throughout Indian Country and in Hawaii. I am also under the assumption that others will speak in-depth on this issue during the course of this Hearing.

1. Recommendation: To implement an oversight **process** that **ensures** that museums and other **entities act on repatriation claims on a timely basis.**

To illustrate the basis of this recommendation, I would like to cite one example which substantiates this recommendation. We have one repatriation claim for over 40 objects of cultural patrimony from the University of Pennsylvania Museum of Archaeology and Anthropology that was initially submitted in September 26, 1995. The clan submitted information to validate its claim. The existence of clans among the Tlingit and their patterns of communal ownership of property are well established within the ethnographic literature and several legal cases including the most recent and widely-published Whale House decision in the Chilkat Tribal Court. This repatriation petition was modeled on similar information that other museums have accepted and honored in their return of objects to clans. The University of Pennsylvania Museum in this instance continued to

request further information including the "use and origin" of the objects. They then wanted tapes from the clan elders. In the third year of the process, another tribe within the same community made a claim for the same objects. The first claimant responded by submitting a list with the signature of all its members and a resolution stating that the clan would remain with the first claimant. Although this repatriation request was clouded with a conflicting claim, the Museum has made no attempt to resolve the issue and instead continues to ask for even more information. We understand that this collection is the centerpiece of University of Pennsylvania exhibits, and the clan views the Museums continuing questions and lack of action over a four year period as a delaying tactic.

2. **Recommendation: Congress should appoint a Committee of Native American Religious Leaders and Scholars** and representatives from the academic community to define "Sacred" taking into consideration the socio-cultural changes within Native American tribes and the phenomenon of religious renewal.

I note that the Committee Staff pointed out in its Memo that the NPS views are that there "sacred" should be narrowly interpreted and evidence of alleged sacredness must be submitted to substantiate claims. I believe that this view sets a contentious framework for Native Americans who have taken an opposite position. Many tribes are involved in religious renewal processes and some are finding that conditions have changed dramatically from the environment of their ancestors. All cultural processes, including religion, evolve and Native Americans must also have the ability to change and alter their practices to accommodate current conditions. This is a complex issue, and I would urge this Committee to have a focused and independent review of the definition of sacred and its interrelationship with religious renewal.

3. Recommendation: Congress should adopt a policy to ensure the prompt reburial of culturally-

uni identifiable human remains.

I am under the assumption that the evidence that will be required to substantiate claims for culturally-unidentifiable human remains will be onerous, costly and time consuming. It is my recommendation that Congress should adopt a policy that would automatically return and rebury culturally-unidentifiable remains to the site from which the remains were taken. The same sacred and spiritual **beliefs surrounding culturally-unidentifiable remain apply** as they do to culturally-identifiable **remains**. This **country has honored all** unidentifiable remains of military personnel **symbolized by the "Unknown Soldier" and buried them**. I believe Unknown Native American **human remains deserve the same treatment and** respect.

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4. Recommendation to ensure that all museums and entities which receive federal funding comply with NAGPRA.

We recently learned through a news article in early April that the Stockton Parks and Recreation Department Tlingit has a 46 foot red cedar Tlingit Totem Pole that it had decided to remove, cut it into manageable pieces and send to "a land fill." The provenance of this pole was known, but no contact under NAGPRA had been made with our people. At this moment we are trying to determine that status of the totem pole.

5. Recommendation: Congress should expand NAGPRA to the international level in concert with federal aid packets to other Nations.

We have heard disturbing news that Russia has been selling ethnographic pieces from its museums to private collectors. Although this information is unsubstantiated, we have reason to believe it is probable. As you are aware Russia presumed to own Alaska prior to the United States and during their tenure in Alaska, its representatives removed many significant ethnographic objects from Alaska.

6. Recommendation: **Amend NAGPRA to exempt private collections donated to by private collectors museums from repatriation claims.**

It is my understanding that private collectors are reluctant to donate their collections to museums since they would be subject to NAGPRA. Although I would favor the return of such collections

to the original owners, and I would encourage collectors to do so, I am of the opinion that this will not be a widespread practice. I would favor collections in museums rather than in private collections where the respective tribes would be at least able to view the objects.